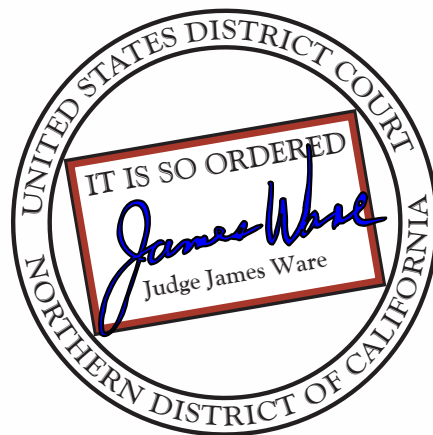


Susan E. Bishop (SBN 187253)
 PRATT & ASSOCIATES
 The Pruneyard Tower I
 1901 S. Bascom Avenue, Suite 350
 Campbell, CA 95008
 Telephone: (408) 369-0800
 Facsimile: (408) 369-0752

Attorneys for Plaintiff
 CHONG'S PRODUCE, INC.



UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN JOSE DIVISION

CHONG'S PRODUCE, INC.

Case No. C 09 00659 JW

Plaintiff,

**(PROPOSED) JUDGMENT UNDER THE
 PERISHABLE AGRICULTURAL
 COMMODITIES ACT (7 U.S.C. §499e)**

v.

ANO SAMIKO, INC. dba SOUTH VALLEY
 PRODUCE, a California Corporation; FOTIS
 DIONISOPOULOS, individually, and DOES 1
 to 10,

Defendants.

A Complaint was filed by Plaintiff CHONG'S PRODUCE, INC. against ANO SAMIKO, INC. dba SOUTH VALLEY PRODUCE, a California Corporation; and FOTIS DIONISOPOULOS, individually, on February 13, 2009. On February 13, 2009, this Court issued a Temporary Restraining Order against ANO SAMIKO, INC.

A hearing on Plaintiff's motion for Preliminary Injunction and Motion to Consolidate the Trial on the Merits was heard on February 23, 2009 at 9:00 a.m. Susan E. Bishop appeared as counsel for Plaintiff. Defendant did not appear.

Accordingly, **IT IS HEREBY ORDERED:**

A. Chong's Produce is a valid trust beneficiary of ANO SAMIKO, INC. pursuant to

1 Section 5(c) of the PACA, 7 U.S.C. §499e(c), in the aggregate amount of \$24,734.12, exclusive of
2 interest and attorneys' fees and costs for violation of PACA by failing to maintain PACA trust
3 assets and failing to pay CHONG'S PRODUCE, INC. promptly under 7 U.S.C. §§499b(4) and
4 (e)(c)(2).

5 B. Starting in 1999, Plaintiff CHONG'S PRODUCE, INC. began selling Produce to
6 ANO SAMIKO, INC. in interstate commerce. In 2008, ANO SAMIKO, INC. purchased from
7 Plaintiff produce in the amount of \$24,734.12. Plaintiff CHONG'S PRODUCE, INC. delivered the
8 Produce to ANO SAMIKO, INC. and ANO SAMIKO, INC. accepted the Produce from Plaintiff
9 but ANO SAMIKO, INC. failed to pay the invoices related to those orders. As of February 13,
10 2009, ANO SAMIKO, INC. has failed to pay the principal balance due of \$24,734.12.


11 C. FOTIS DIONISOPOULOS, as the President of ANO SAMIKO, INC. had a duty to
12 ensure that ANO SAMIKO, INC. fulfilled its duties as a PACA trustee, and maintained PACA
13 Trust Assets in such a manner so as to ensure there were, at all times, sufficient Trust Assets
14 available to satisfy all outstanding PACA trust obligations, such as that owed to Plaintiff, as they
15 became due. FOTIS DIONISOPOULOS breached his fiduciary duty to direct ANO SAMIKO,
16 INC. to fulfill its duty as a PACA trustee to preserve and maintain sufficient PACA Trust Assets to
17 pay Plaintiff for the Produce supplied by it to ANO SAMIKO, INC.. As a direct result of FOTIS
18 DIONISOPOULOS' breach of fiduciary duty, Plaintiff has incurred damages in the amount of
19 \$24,734.12, plus interest from the date each invoice became past due, costs and attorneys' fees.
20 FOTIS DIONISOPOULOS is personally liable to Plaintiff for the breach of their fiduciary duty in
21 dissipating the PACA trust.

22 D. Judgment is hereby entered in favor of Plaintiff CHONG'S PRODUCE, INC. and
23 against ANO SAMIKO, INC. and FOTIS DIONISOPOULOS, jointly and severally in the amount
24 of \$24,734.12, plus interest, costs and reasonable attorney's fees.

25 //

26 //

1 **IT IS SO ORDERED** in Chambers at San Jose, California this 18 day of March 2009.
2
3
4

5 
6 Honorable Judge James Ware
7 United States District Court Judge
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Praut & Associates

THE PRUNEYARD TOWER I
1901 S. BASCOM AVENUE, SUITE 350
CAMPBELL, CA 95008
TELEPHONE (408) 369-0800
FACSIMILE (408) 369-0752